IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO.15292 of 2004

Between:

Smt. J. C. Uma Reddy, W/o. J. C. Prabhakara Reddy,
R/o. 15/311, Sanjeevanagar, Tadipatri, Anantapur District.

...PETITIONER

AND

The Secretary, State Transport Authority, Andhra Pradesh, B.R.K.R. Buildings, at Hyderabad.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus, declaring the impugned order of the respondent dated 24.08.2004 in his proceedings - Memo NO. 9093/B3/04, as illegal, arbitrary and contrary to law and further direct the respondent herein to release the Petitioner's Bus bearing Registration No. AP.02/U.3582 from the coverage of Inter State Contract Carriage Permit No.4/STA/2002 by issuing Clearance Certificate forthwith, enabling the Petitioner to cover the said permit with later model vehicle.

Counsel for the Petitioner: MR.V.NARASIMHA REDDY

Counsel for the Respondent: GP FOR TRANSPORT

The Court made the following:

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.15292 of 2004

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ORDER:

The respondent by the memo dated 24.08.2004 rejected the application of the petitioner dated 21.08.2004 "for release of his vehicle AP 02 U 3582 from the coverage of the Inter State Contract Carriage Permit No.4/STA/2002", which permit is valid upto 02.04.2007. This is the order challenged in this Writ Petition.

2. The petitioner is the owner of the bus bearing the registration number as above in respect of which he obtained an Inter State Contract Carriage Permit, valid upto 02.04.2007. She has been operating the bus in the States of Andhra Pradesh and Karnataka and has paid tax for the quarter ended 30.09.2004 in both the States. The bus became unroad-worthy for such Inter State journey. The petitioner stopped operation of the vehicle after submitting a stoppage report, since July, 2004. She made an application to the respondent for release of the said vehicle from the coverage of the permit, in order to purchase a new vehicle for the purpose of replacing the new vehicle on the Inter State route under the Inter State Contract Carriage Permit. This was rejected by the impugned order.

Section 83 of the Motor Vehicles Act, 1988, which is the applicable provision

reads as under:

Replacement of Vehicles:- The holder of a permit may, with the permission of the authority by which the permit was granted, replace any vehicle covered by the permit by any other vehicle of the same nature.

3. On a true and far construction of the provision, the inference is compelling that in order to obtain permission from the authority competent for change of the vehicle, the vehicle which is to substitute the existing vehicle should also be in existence and presented before the authority competent so as to enable the satisfaction that the other vehicle is of the same nature. Admittedly in the case on hand, the new vehicle, which the petitioner intends to purchase for the purpose of replacing the existing vehicle, which had become unroad-worthy, is still in embryo. In the circumstances, the provisions of Section 83 of the Motor Vehicles Act, 1988 do not enable the respondent to authorize release of the petitioner's existing bus from the coverage of the Inter State Contract Carriage Permit.

4. On the above analysis, there is no error in the order impugned warranting interference with the Writ Petition.

5. The Writ Petition is accordingly dismissed.

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(GODA RAGHU RAM, J)

22nd December 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, State Transport Authority, Andhra Pradesh, B.R.K.R. Buildings, at Hyderabad.
2. Two CCs to G.P. for Transport, High Court Buildings, Hyderabad (OUT).
3. Two CD copies.